



**Testimony of
Bethanne Cooley
Director, State Legislative Affairs
CTIA
Concerns Regarding Connecticut House Bill 5640
March 23rd, 2016**

Before the Connecticut Joint Committee on Judiciary

Co-Chair Coleman, Co-Chair Tong, and members of the Committee, on behalf of CTIA, the trade association for the wireless communications industry, I write to express concerns related to House Bill 5640. While perhaps well-intentioned, House Bill 5640 may conflict with federal law and create confusion amongst CTIA members in how they respond to lawful requests from law enforcement.

The wireless industry regularly works with and cooperates with law enforcement requests. In fact, each wireless carrier has a dedicated response team that diligently works with public safety and law enforcement to honor the lawful requests they receive from law enforcement for location information. Wireless carriers are committed to protecting our consumers and their privacy while being fully responsive to legitimate law enforcement needs.

House Bill 5640 has the potential to create a conflict between proposed Connecticut statute and federal law. As proposed, Section (6)(c) of House Bill 5640 notes that a "telecommunications carrier or provider of electronic telecommunications service shall provide the requested geo-location data upon the applicant stating under oath..." that there is an exigent circumstance. However, under prevailing federal law,¹ wireless carriers are permitted to release location information "to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency." Under federal law, wireless providers may voluntarily release information to

¹ See 18 USC 2702(b)(8) & (c)(4), <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title18/html/USCODE-2010-title18-partI-chap121.htm>, last accessed 3/21/2016.

law enforcement in the absence of a legal demand if the provider, in good faith, believes that an exigency exists. The federal statute defines exigency as "an emergency involving danger of death or serious physical injury to any person." This is important because, under federal law, the discretion to release information remains with the wireless provider – not the law enforcement agency. As drafted, House Bill 5640 would conflict with federal law and would likely be preempted.

Additionally, as noted above, exigent circumstances also play an important role in responding to law enforcement requests for location information. House Bill 5640 fails to define exigency or exigent circumstances in Section (6)(c). Again, because federal law dictates that wireless providers use discretion to release location information to law enforcement once the government has met the statutory definition of exigency, the lack of this definition makes House Bill 5640 that much more problematic and unworkable.

In closing, the wireless industry takes seriously its responsibility in responding to lawful requests from law enforcement. However, as drafted, House Bill 5640 is unworkable and would impede our ability to continue to work with law enforcement. We welcome the opportunity to discuss our concerns with interested stakeholders.